



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/599,740

10/06/2006

Yoshio Kawakami

P30925

3488

52123 7590 08/20/2010
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER

KENDALL, CHUCK O

ART UNIT

PAPER NUMBER

2192

NOTIFICATION DATE

DELIVERY MODE

08/20/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Office Action Summary	Application No. 10/599,740	Applicant(s) KAWAKAMI ET AL.	
	Examiner CHUCK O. KENDALL	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/16/07, 04/02/07, 12/23/08</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This is in response to application filed 10/06/06.
2. Claims 1 – 34 have been examined.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1 – 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 28, 30 – 32 discloses a computer readable medium however Applicants specification defines in the specification that the computer readable medium includes transmission type media. Transmission type media is considered as a source of energy and as such is categorized as any acceptable form of patentable subject matter.

Claim Rejections - 35 USC § 102

Art Unit: 2192

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Sarfati US 6,970,960 B1.

Claims 1, 16, 22, 23 and 27 – 34, a program execution device that executes a program, said program execution device comprising:

a first program selection unit operable to select, as a program to be executed, a program which is downloaded and executed (2:32 – 52);

a program monitoring unit operable to monitor an operational state of a currently executed program (FIG. 13A – FIG. 13B, see all associated text);

a second program selection unit operable to select, as a program to be executed, a program that is of the same type as the currently executed program, in the case where abnormal termination of the currently executed program is detected by said program monitoring unit (5:30 – 67);

an execution unit operable to execute the program selected by said first program selection unit and, in the case where abnormal termination of the currently executed program is detected by said program monitoring unit, to execute the program selected by said second program selection unit (5:30 – 67);

a cause obtainment unit operable to obtain a cause of the abnormal termination of the program detected by said program monitoring unit (5:30 – 67); and

a countermeasure execution unit operable to execute a countermeasure based on the cause of the abnormal termination, wherein said execution unit is operable to execute the program selected by said second program selection unit, after the countermeasure is executed by said countermeasure execution unit (5:30 – 67).

Regarding claims 2 and 17, the program execution device according to claim 1, wherein said second program selection unit is operable to select, as the program to be executed, a program which is different from the program selected by said first program selection unit (5:55 – 67, see data loader and different data loader).

Regarding claim 3, the program execution device according to claim wherein said second program selection unit is operable to select, as the program to be executed, a program which is the same as the program selected by said first program selection unit (5:10 - 67).

Regarding claim 4, the program execution device according to claim 1, wherein said second program selection unit is operable to select, as the program to be executed:

a program which is the same as the program selected by said first program selection unit, in the case where a predetermined condition is not satisfied (5:50 - 67); and

a program which is different from the program selected by said first program selection unit, in the case where the predetermined condition is satisfied (5:50 - 67).

Regarding claims 5 and 24, the program execution device according to claim 4, wherein said second program selection unit is operable to perform selection in the case where the predetermined condition is whether or not the number of abnormal terminations of the program which said program monitoring unit has detected as having abnormally terminated exceeds a predetermined numbers and to determine that:

the predetermined condition is not satisfied in the case where the number of abnormal terminations of the program does not exceed the predetermined number (5:20 – 6:67); and

the predetermined condition is satisfied in the case where the number of abnormal terminations of the program exceeds the predetermined number (5:20 – 6:67).

Regarding claim 6, the program execution device according to claim 4, wherein said second program selection unit is operable to perform selection in the case where the predetermined condition is whether or not the number of times a program to be selected has been selected exceeds a predetermined number, and to determine that:

the predetermined condition is not satisfied in the case where the number of times the program has been selected does not exceed the predetermined number (6:15 – 67); and

the predetermined condition has been satisfied in the case where the number of times the program is selected exceeds the predetermined number (6:15 – 67).

Regarding claims 7 and 22, the program execution device according to claim 4, wherein said second program selection unit is operable to perform

selection under an assumption that time information is the predetermined condition (6:15 – 67).

Regarding claim 8, the program execution device according to claim 4, wherein said second program selection unit is operable to perform selection under an assumption that:

the predetermined condition is whether or not an instruction from a user is received (FIG. 13B and all associated text);

the predetermined condition is not satisfied in the case where the instruction from the user is not received (FIG. 13B and all associated text);
and

the predetermined condition is satisfied in the case where the instruction from the user is received (FIG. 13B and all associated text).

Regarding claims 9 and 18, the program execution device according to claim 1, wherein said second program selection unit is operable to select, as the program to be executed, a program in a non-volatile memory (2:50 – 65).

Regarding claim 10 and 19, the program execution device according to claim 1, wherein one of said first program selection unit and said second

Art Unit: 2192

program selection unit is operable to select, as the program to be executed, a program that can be acquired via a network (5:15 – 6:67).

Regarding claims 11 and 20, the program execution device according to claim 1, wherein one of said first program selection unit and said second program selection unit is operable to select, as the program to be executed, a program that is included in a broadcast wave (5:15 – 6:67).

Regarding claims 13 and 21, the program execution device according to claim 11 wherein said program monitoring unit is operable, upon detecting abnormal termination of the currently executed program, to present an occurrence of the abnormal termination to a user (5:15 – 6:67).

Regarding claim 14, the program execution device according to claim 1, wherein said program monitoring unit is operable to present the abnormal termination occurrence to a user, using an LED display(5:15 – 6:67).

Regarding claim 15, the program execution device according to claim 1, wherein said program monitoring unit is operable to present the abnormal termination occurrence to a user, using a display on a display screen (5:15 –

Art Unit: 2192

6:67).

Regarding claim 25, the program execution device according to claim 24, wherein said program monitoring unit is operable to store the information in a removable recording medium (FIG. 3).

Regarding claim 26, the program execution device according to claim 24, wherein said program monitoring unit is operable to transmit the information to an external destination (FIG.3 and associated text).

Correspondence Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached between Monday and Thursday, at 11:00 am - 4:300pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2192

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chuck O Kendall/

Primary Examiner, Art Unit 2192